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Paper No.

FEB - 9 / 04

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 01-02-04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

1. Amendments to the specification:

A. Amended paragraph(s) do not include markings.  
 B. New paragraph(s) should not be underlined.  
 C. Other \_\_\_\_\_

1 no: 3-3-2004

2. Abstract:

A. Not presented on a separate sheet. 37 CFR 1.72.  
 B. Other \_\_\_\_\_

2 no: 4-3-2004

3 no: 5-3-2004

4 no: 6-3-2004

3. Amendments to the drawings: \_\_\_\_\_

5 no: 7-3-2004

6 no: 8-3-2004



9W

4. Amendments to the claims:

A. A complete listing of all of the claims is not present.  
 B. The listing of claims does not include the text of all claims (including withdrawn claims)  
 C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.  
 D. The claims of this amendment paper have not been presented in ascending numerical order.  
 E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/olpa/preognocice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

7. V. Marilee

Legal Instruments Examiner (LIE)

(571) 272-0565

Telephone No.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,356	07/12/2001	Graham P. Allaway	43966-CB/JPW/SHS	2885
7590	02/03/2004			
			EXAMINER	
			PARKIN, JEFFREY S	
			ART UNIT	PAPER NUMBER
			1648	

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



*Image 1648*

43966-CB/JPW/MAF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Graham P. Allaway, et al.  
Serial No. : 09/904,356 Examiner: J. Parkin  
Filed : July 12, 2001 Group Art Unit: 1648  
For : METHODS FOR USING RESONANCE ENERGY  
TRANSFER-BASED ASSAY OF HIV-1 ENVELOPE  
GLYCOPROTEIN-MEDIATED MEMBRANE FUSION, AND  
KITS FOR PRACTICING SAME

1185 Avenue of the Americas  
New York, New York 10036  
February 17, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

RESPONSE TO FEBRUARY 3, 2004 NOTICE  
OF NON-COMPLIANT AMENDMENT (37 C.F.R. 1.121)

This is a Response to a Notice of Non-Compliant Amendment (37 C.F.R. 1.121) (the "Notice") issued by the United States Patent and Trademark Office on February 3, 2004 in connection with the above-identified application. A copy of the Notice is attached hereto as **Exhibit A**. A response to the Notice is due one month from its mailing date, i.e., on March 3, 2004. Accordingly, this Response is being timely filed.

The Notice states that the amendment document filed January 2, 2004 is non-compliant because a complete listing of all of the claims is not present. The status of original claims 1-6 is not recited in the amendment document. The Notice further states that in order for the amendment document to

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Serial No. : 09/904,356  
Filed : July 12, 2001  
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be compliant, correction is required whereby (only) the corrected section of the non-compliant amendment is to be submitted (in its entirety). That is, the entire "Amendments to the claims" section of applicants" amendment document is to be re-submitted.

Attached as Exhibit B therefore, is a replacement "Amendments to the claims" section of the Amendment filed January 2, 2004 which has been revised to recite that claims 1-6 are cancelled. This cancellation was carried out in the Preliminary Amendment filed July 12, 2001 with the application. Submission of the replacement "Amendments to the claims" section is believed to place the Amendment filed January 2, 2004 in compliance with 37 C.F.R. 1.121 and applicants therefore request that the holding of non-compliance be withdrawn pursuant to the filing of this Response.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone either of them at the number provided below.

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No fee is believed necessary with the filing of this Response. Should any fee be required, authorization is hereby provided to charge the required amount of such fee to Deposit Account No. 03-3125.

Respectfully submitted,

Mark A. Farley

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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Mark A. Farley 2-17-04

John P. White	Date
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